

#14



Attorney Docket No.: VN-169RI

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Reissue Application of: Rangan, et al.)
Examiner: Ton, D.)
Application No.: 09/173,582)
Filed: October 15, 1998)
Group Art Unit: 2661)
For: DATA COMMUNICATION NETWORK)
WITH TRANSFER PORT, CASCADE PORT)
AND/OR FRAME SYNCHRONIZING)
SIGNAL)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Request for Reconsideration of Petition Under 37 CFR 1.183 to Waive 37 CFR 1.67

Sir:

In response to the Decision on Petition mailed April 8, 2003 (copy attached), Applicant hereby petitions for the USPTO to accept the Inventor Declaration for the above-identified application even though one co-inventor, Richard Thaik, has not been located after diligent efforts. The relevant facts are set forth in the Declaration of Alan Loudermilk. This Declaration of Alan Loudermilk and the related Inventor Declaration and related documents are being re-submitted herewith in response to the above-referenced Decision. The last known address for Mr. Thaik is 1566 Cleo Springs Drive, San Jose CA 95131, or 4325 Renaissance Drive, San Jose, CA 95134. All other co-inventors have signed the Inventor Declaration for this application. It is further noted that the Inventor Declaration most recently submitted omitted inventor Brian Edem due to a clerical error, and for confirmation purposes it is noted that there has not been any attempt to change the inventive entity from the original four inventors.

Please charge Deposit Account No. 50-0251 in the amount of \$130.00 for the petition fee. Please charge any additional fees due, or credit any overpayment, to Deposit Account No. 50-0251. An additional copy of this document is enclosed.

09/16/2003 SLUANG1 00000040 500251 09173582
02 FC:1460 130.00 DA
Adjustment date: 10/14/2003 AKELLEY
09/16/2003 SLUANG1 00000040 500251 09173582
02 FC:1460 130.00 CR

Respectfully submitted,

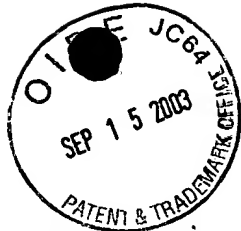
Alan R. Loudermilk
Registration No. 32,788
Attorney for Applicant(s)

September 8, 2003
P.O. Box 3607
Los Altos, CA 94024-0607
408-868-1516

I hereby certify that the foregoing is being deposited with the U.S. Postal Service, postage prepaid, to the Commissioner for Patents, Mail Stop ~~Non-Fee Amendment~~ Petition, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated above.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Filed: October 15, 1998)
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P.O. Box 1450
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DECLARATION OF ALAN R. LOUDERMILK

I, Alan R. Loudermilk, am the patent attorney prosecuting this reissue application on behalf of the Applicant.

In response to the Decision on Petition mailed April 8, 2003, I endeavored to have a new declaration re-executed by all of the inventors for this application. After considerable effort, I was able to obtain the signatures of inventors Rangan, Worsley and Edem. I have been unable to locate the third named inventor, Richard Thaik.

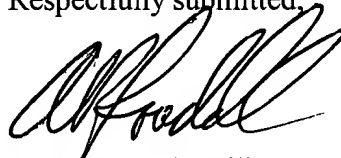
This declaration is provided to explain that I have made a diligent effort in attempting to locate Richard Thaik. He is no longer employed with the former assignee of the patent that is being reissued (National Semiconductor), and he is no longer employed by his last known employer (Cisco Systems). It was at Cisco Systems in San Jose that I last met Mr. Thaik in May 1999, which was at the time of execution of the originally-submitted declaration. My recent efforts to locate Mr. Thaik include the following.

I made numerous calls to Cisco System and was unable to determine any information regarding his current whereabouts. A letter sent to Cisco Systems was returned to sender. Responses were not received to the letters sent to his last two (believed) home addresses (1566 Cleo Springs Drive, San Jose CA 95131, and 4325 Renaissance Drive, San Jose, CA 95134). Calls to directory assistance were unsuccessful. Various Internet-based searches were not successful. I attempted to track Mr. Thaik down through Purdue University, from which he graduated and to which he has contributed over the years, but the contact information that he maintained with Purdue University had not been updated.

Based on the previously friendly and cooperative interaction that I had with Mr. Thaik in 1999, it would seem that he has moved to an unknown location and has not received, or is not in position to receive, the correspondence that has been sent to him. Accordingly, and in view of the foregoing, Applicant is submitting a new Declaration executed by the remaining co-inventors and requests that this new Declaration be accepted by the US Patent Office.

I declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the reissue application or any patent issued thereon.

Respectfully submitted,



Alan R. Loudermilk
Registration No. 32,788
Attorney for Applicants

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September 8, 2003
P.O. Box 3607
Los Altos, CA 94024-0607
408-868-1516



Paper No. 13

ALAN R LOUDERMILK
10950 N. BLANEY AVE.
SUITE B
CUPERTINO CA 95014

COPY MAILED

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ON PETITION

In re Application of
Rangan, Worsley, Thaik & Edem
Application No.: 09/173,582
Filed: October 15, 1998
Attorney Docket No.: VN-169RI
For: DATA COMMUNICATION NETWORK
WITH TRANSFER PORT, CASCADE PORT
AND/OR FRAME SYNCHRONIZING SIGNAL

This is a decision on the petition under 37 CFR 1.47(a), filed May 11, 1999 (certificate of mailing date May 6, 1999). The petition was only recently forwarded to the Office of Petitions. In addition, the decision will address the January 18, 2002 (certificate of mailing date December 10, 2001) submission of a supplemental declaration lacking the signature of all 4 inventors. The January 18, 2002 submission will be treated as a petition under 37 CFR 1.183 to waive 37 CFR 1.67.

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

The petition under 37 CFR 1.183 to waive 37 CFR 1.64(a) and 1.67(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183 to waive 37 CFR 1.67" and must include an oath or declaration executed by the correct inventive entity. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 15, 1998 without an executed oath or declaration. Accordingly, on November 6, 1998, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, a surcharge for their late filing, consent of the assignee to the reissue application, and the assignee's statement establishing ownership of the patent.

In response, on May 11, 1999 (certificate of mailing date May 6, 1999), a petition for a four month extension of time and required fee, a declaration signed by 3 of 4 inventors, the surcharge, consent of the assignee to the reissue application, and the assignee's statement establishing ownership of the patent. The petition states, "To the extent necessary, the Assistant Commissioner may proceed under 37 CFR 1.47."

The last possible date to timely reply to the November 6, 1998 Notice to File Missing Parts of Application was June 6, 1999. Petitioners eventually filed an incomplete, yet executed declaration by the previously non-signing inventor, Geetha N.K. Rangan on June 28, 1999 (certificate of mailing date June 23, 1999).

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mailing date June 25, 1999). The declaration on its own was submitted after the extendable deadline, and viewed on its own, is an improper reply to the November 6, 1998 Notice. However, the declaration taken together with a Rule 47 petition is a proper reply to the November 6, 1998 Notice. Therefore, pursuant to petitioners' authorization and in order to avoid abandonment, the Office will view the May 11, 1999 (certificate of mailing date May 6, 1999) correspondence as a petition under 37 CFR 1.47(a). The \$130 petition fee will be charged to deposit account no. 50-0251.

As stated above, Ms. Rangan signed a supplemental declaration that was filed on June 28, 1999 (certificate of mailing date June 25, 1999). All inventors having signed a declaration, this supplemental declaration fixed the inventive entity as four inventors.

The Rule 47 petition is **dismissed as moot** because once all inventors have signed the declaration, there is no issue of a non-signing inventor.

Petitioners are advised that, as yet there is no declaration in compliance with 37 CFR 1.63 of record. As such, petitioners must file a supplemental declaration that contains Ms. Rangan's residence, mailing address and citizenship because it appears that the second supplemental declaration filed on February 21, 2001 is the same supplemental declaration as that filed on June 28, 1999 (certificate of mailing date June 25, 1999), only with the inventor's residence, post office address, and citizenship written in after she signed the first supplemental declaration.

37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or **other alteration** of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." (emphasis added). declaration. For this reason, a newly executed supplemental declaration by Ms. Rangan, listing all 4 inventors and Ms. Rangan's residence, mailing address, and citizenship is **REQUIRED**.

Petitioners filed a supplemental declaration on January 18, 2002 (certificate of mailing date December 10, 2001). The declaration lists only 3 of the 4 inventors. Petitioners request that the supplemental declaration be accepted without co-inventor Richard Thaik's signature. This request is properly treated as a petition under 37 CFR 1.183 to waive 37 CFR 1.64(a) and 1.67(a). A \$130 petition fee will be charged to petitioners' deposit account for the filing of the petition under 37 CFR 1.183.

While petitioner has provided adequate evidence that Inventor Thaik cannot be located, there is another problem with the declaration. Inventor Edem is omitted. It is unclear as to whether petitioners are attempting to eliminate Inventor Edem or the absence of his information was an oversight.

If petitioners are attempting to eliminate Inventor Edem, petitioners should read MPEP 1412.04 and proceed accordingly.

If petitioners left off Inventor Edem through oversight, the following analysis applies. Absent from the record is a single supplemental oath or declaration which sets forth the names of all 4 inventors. Therefore, the declaration lacks compliance with 37 CFR 1.63(b)(2), for, as of yet, the signing inventors have not executed a declaration naming all 4 inventors. Petitioners must submit an executed substitute declaration which sets forth the names of the four joint inventors and which also includes the citizenship, residence and mailing address of each inventor. If Inventor Edem cannot be reached or refuses to sign the substitute declaration, then evidence of that fact must be submitted.

Clarification of petitioners' intent is required.

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The petition under 37 CFR 1.183 to waive 37 CFR 1.64(a) and 1.67(a) for a supplemental oath or declaration is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail until 05/01/03: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By mail on or after 05/01/03: Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

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Telephone inquiries should be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions